

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEANNA MALAIVANH,

Plaintiff,

v.

HUMPHREYS COLLEGE, et al.,

Defendant.

No. 2:16-cv-01081-KJM-GGH

ORDER

Before the court is an unopposed motion by defendants Jesse De La Cruz and JSD Consultations to stay this suit pending resolution of state court criminal proceedings. ECF Nos. 7, 12.

A federal district court has broad discretion in deciding whether to issue a stay. *Fed. Sav. & Loan Ins. Corp. v. Molinaro*, 889 F.2d 899, 902 (9th Cir. 1989). A “trial court may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case.” *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979). This rule “does not require that the issues in such proceedings are necessarily controlling of the action before the court.” *Id.* at 863–64. Nonetheless, “[w]here it is proposed that a pending proceeding be stayed, the competing interests which will be affected by the granting or refusal to grant a stay

1 must be weighed.” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). “Among these  
2 competing interests are the possible damage which may result from the granting of a stay, the  
3 hardship or inequity which a party may suffer in being required to go forward, and the orderly  
4 course of justice measured in terms of the simplifying or complicating of issues, proof, and  
5 questions of law which could be expected to result from a stay.” *Id.*

6 Here, the fairest course for the parties is to stay this action pending resolution of  
7 the criminal proceeding. As defendants note, the criminal proceeding in San Joaquin Superior  
8 Court is based on the same factual allegations underlying the complaint, and the pending civil  
9 action implicates the “defendant[s] Fifth Amendment rights” in the defense of their criminal case  
10 in state court. *Keating v. Office of Thrift Supervision*, 45 F.3d 322, 324 (9th Cir. 1995). Further,  
11 plaintiff has filed a statement of non-opposition, ECF No. 12, suggesting she will experience little  
12 to no prejudice if the court grants defendants’ request, *Keating*, 45 F.3d at 325 (considering  
13 prejudice to plaintiff in determining whether to grant stay).

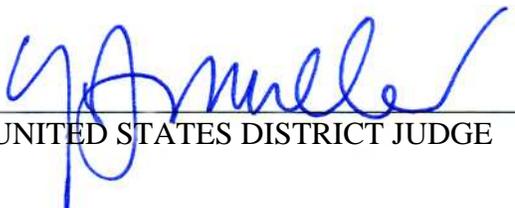
14 Accordingly, the court GRANTS defendants Jesse De La Cruz’s and JSD  
15 Consultations’s motion to stay this suit pending the resolution of the criminal proceedings. All  
16 other dates in this case, including the scheduled hearing date for defendant Humphreys College’s  
17 pending motion to dismiss, ECF No. 8, are VACATED.

18 The parties are directed to file a report on the status of the criminal proceeding  
19 with the court by November 30, 2016, or within seven (7) days of that proceeding’s termination,  
20 whichever is sooner.

21 This order resolves ECF No. 7.

22 IT IS SO ORDERED.

23 DATED: September 20, 2016

24  
25   
26 UNITED STATES DISTRICT JUDGE  
27  
28